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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/686,967

10/16/2003

Channing K. Barringer

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30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER

MEYERS, MATTHEW S

ART UNIT

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10/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/686,967	<b>Applicant(s)</b> BARRINGER ET AL.	
	<b>Examiner</b> MATTHEW S. MEYERS	<b>Art Unit</b> 3689	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to applicant's communication on 8/28/08, wherein claims 1-5 and 15 are currently pending.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/28/08 has been entered.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-5 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner is unable to determine what applicant is claiming when the owner is the participant. Is the owner the one proposing solutions as claimed in claim 1? Are the owner and participant the same person and therefore are all participants owners?

***Claim Rejections - 35 USC § 102***


1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Meiser et al (Pub. No." US 2003/0163343) (Hereinafter referred to as Meiser).

3. With respect to claim 1, Meiser discloses an entertainment sponsorship marketing system (Meiser [abs], "Concurrently therewith, the effectiveness of transmitting the electronic content can be determined by identifying consumer responses to the transmitted electronic content.") including:

a. a media source configured to broadcast via a first marketing channel a show having a story line related to a business operation having an owner, (Meiser Fig. 1, item 101 and [0014], "The system can include at least one delivery application configured to format electronic content and transmit the electronic content to consumers over a computer communications network.)

<sup>1</sup>  
[Dictionary.com Unabridged \(v. 1.1\) - Cite This Source - Share This](#)  
**me·di·a**  [Audio Help](#) [**mee-dee-uh**] [Pronunciation Key](#)  
-noun

1. a pl. of [MEDIUM](#).

2. (*usually used with a plural verb*) the means of communication, as radio and television, newspapers, and magazines, that reach or influence people widely: *The media are covering the speech tonight.*

b.

- c. an interface configured to accept from a participant input including contact information of said participant, a response to an inquiry, and a proposed solution incorporating a product of said sponsor and corresponding to a predetermined issue related to said business operation (Meiser [0031], "For example, system 100 can include several e-marketing messages relating to a particular product such as "Product A is great" and "Product A is good". The e-marketing message controller can monitor consumer responses to each of the messages and select the more successful message for future transmissions.");
  - d. a database constructed to store said response from said participant and link said response to a plurality of responses from a plurality of other participants based on at least one of said response to said inquiry and said proposed solution (Meiser Fig. 1, item 140); and
  - e. a processor constructed to select at least one proposed solution stored on said database and incorporate said at least one proposed solution into said storyline (Meiser [0031], "For example, system 100 can include several e-marketing messages relating to a particular product such as "Product A is great" and "Product A is good". The e-marketing message controller can monitor consumer responses to each of the messages and select the more successful message for future transmissions.").
4. With respect to claim 2, Meiser discloses wherein said interface is communicatively coupled to a network for facilitating communications between said participant and the plurality of other participants (Meiser [0031], "For example, system

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100 can include several e-marketing messages relating to a particular product such as "Product A is great" and "Product A is good". The e-marketing message controller can monitor consumer responses to each of the messages and select the more successful message for future transmissions.").

5. With respect Claim 15, Meiser discloses wherein the owner is the participant (Meiser [0031], "For example, system 100 can include several e-marketing messages relating to a particular product such as "Product A is great" and "Product A is good". The e-marketing message controller can monitor consumer responses to each of the messages and select the more successful message for future transmissions.")

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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8. **Claims 3 and 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Meiser as applied to claim 1 above and further in view of "Two Thumbs Up for Card Placement", Author Unknown, Credit Card Management, May 1993, (hereinafter referred to as "Card Placement").

9. With respect to claim 3, Meiser discloses all the above limitations. Meiser also discloses a method for eliciting a response to an electronic campaign which can determine the effectiveness of the electronic content by identifying consumer responses to the transmitted electronic content. Meiser does not explicitly disclose wherein said electronic campaign includes financial assistance products. Card Placement teaches the placement of a VISA card (interpreted to be a financial assistance product) into the story line of a production where the card is integral to the storyline. (Card Placement para 6 page 2).

10. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate a financial assistance product as disclosed by Card Placement into an electronic campaign which can determine the effectiveness of the electronic content by identifying consumer responses to the transmitted electronic content as disclosed in Meiser in order to provide a more efficient and valuable method of advertising a financial assistance product while having the ability to dynamically control its outcome with the feedback provided in Meiser, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

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11. With respect to claim 4, Meiser does not explicitly disclose wherein said product includes at least one of a transaction card, a financial service and a loan service. Card Placement teaches the placement of a VISA card (interpreted to be a financial service, transaction card, and a loan service) into the story line of a production where the card is integral to the storyline, (Card Placement para 6 page 2). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate a product as disclosed by Card Placement into an electronic campaign which can determine the effectiveness of the electronic content by identifying consumer responses to the transmitted electronic content as disclosed in Meiser in order to provide a more efficient and valuable method of advertising a transaction card, a financial service and a loan service product while having the ability to dynamically control its outcome with the feedback provided in Meiser, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

12. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Meiser as applied to claim 1 above and further in view of "Agent Offers One-Stop TV Production", Bill Carter, March 11, 2002, New York Times, Late Edition (hereinafter referred to as "Carter").

13. With respect to claim 5, Meiser discloses all the above limitations. Meiser also discloses a method for eliciting a response to an electronic campaign which can determine the effectiveness of the electronic content by identifying consumer responses to the transmitted electronic content. Additionally, Meiser can access e-marketing



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content including, for example, images, text, audio, and video from the e-marketing data (Meiser [0026]). Meiser does not explicitly disclose wherein said electronic campaign is a reality television show. Carter teaches a reality show (reality television series about the creation and daily working of a real restaurant, para 8 page 2). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate a reality show as disclosed by Carter into an electronic campaign which can determine the effectiveness of the electronic content by identifying consumer responses to the transmitted electronic content as disclosed in Meiser in order to provide a better advertising media which creates customer awareness while ensuring the consumer to stayed tuned to the media while having the ability to dynamically control its outcome with the feedback provided in Meiser, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

### ***Response to Arguments***

14. Applicant's arguments with respect to claims 1-5 and 15 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW S. MEYERS whose telephone number is (571)272-7943. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jan Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Meyers/  
Examiner, Art Unit 3689

/Janice A. Mooneyham/  
Supervisory Patent Examiner, Art Unit 3689